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7 **UNITED STATES DISTRICT COURT**  
8 **SOUTHERN DISTRICT OF CALIFORNIA**

9  
10 CROSS-FIT, INC., a Delaware  
corporation,,

11 Plaintiff,

12 v.

13 NATIONAL STRENGTH AND  
14 CONDITIONING ASSOCIATION, a  
Colorado corporation,,

15 Defendant.  
16

Case No. 14CV1191 JLS KSC

**JOINT APPLICATION TO  
CONTINUE EXPERT DATES AND  
DEADLINES IN THE FOURTH  
AMENDED SCHEDULING ORDER**

Judges: The Hon. Janis L.  
Sammartino

The Hon. Karen S.  
Crawford

Crtrm.: 4A

17  
18 Pursuant to the Chamber Rules and Civil Pretrial Procedures of the Honorable  
19 Karen S. Crawford (the "Chamber Rules"), Plaintiff CrossFit, Inc. ("CrossFit" or  
20 "Plaintiff") and Defendant National Strength and Conditioning Association ("NSCA"  
21 or "Defendant") hereby jointly petition the Court to briefly continue the pending  
22 deadlines for expert discovery set out in its February 10, 2016 Fourth Amended  
23 Scheduling Order Regulating Discovery and Other Pre-Trial Proceedings (Dkt. No. 69)  
24 (the "Fourth Amended Scheduling Order") and for such other measures as the Court  
25 deems appropriate in order to complete expert discovery in this matter.

26 Per the operative Fourth Amended Scheduling Order, the parties are obligated to  
27 supplement their expert disclosures regarding contradictory or rebuttal evidence by  
28 April 15, 2016, having been extended by order of this Court following a prior Joint

1 Application to Continue Dates and Deadlines in the Third Amended Scheduling Order.  
2 (Dkt. No. 68; Dkt. No. 69 ¶ 2.) The parties have stipulated that NSCA may have more  
3 time to review and rebut CrossFit, Inc.'s damages-related expert report. The parties  
4 therefore respectfully request a one (1) week extension of the deadline to supplement  
5 expert disclosures regarding contradictory or rebuttal evidence, an extension of all later  
6 expert discovery dates by an equivalent duration to enable a full and complete discovery  
7 process, and an expert discovery cut-off date of May 31, 2016 to accommodate both  
8 parties' expert witnesses availability for deposition. This would push the rebuttal  
9 deadline to **April 22, 2016** and the expert discovery cut-off date to **May 31, 2016**.

10 As set forth in greater detail in joint discovery motions already heard by this  
11 Court, the instant case relates to an article published in Defendant's Journal of Strength  
12 and Conditioning Research that Plaintiff contends was knowingly published with false  
13 and disparaging information about its business and training program. (*See* Dkt. No. 52  
14 at 3:5-14.) Defendant counters that the article was authored by independent researchers  
15 and was subject to a rigorous peer review process prior to its publication. (*Ibid.*) Both  
16 parties will depend heavily upon expert testimony to prove various aspects of their  
17 claims and defenses, including but not limited to the issue of damages.

18 On April 1, 2016, pursuant to the terms of the Fourth Amended Scheduling  
19 Order, the parties served on each other their respective Rule 26 expert reports.  
20 CrossFit, Inc.'s damages report is extensive and includes an analysis of internet and  
21 social media statistics, in addition to a purported proprietary survey of potential  
22 customers. Rule IV(C) of the Chamber Rules requires the parties to petition the Court  
23 for an extension of the discovery deadlines, which will be granted upon a showing of  
24 good cause. Here, the parties have conferred and believe that good cause exists to  
25 extend the present schedule in light of the issues outlined above, and have hereby  
26 stipulated as such by their respective counsel's signatures below. In order to properly  
27 respond to and rebut the lengthy expert reports served by CrossFit, Defendant requires  
28 an additional week, and Plaintiff has agreed to this request.

1 Therefore, the parties respectfully request that the Court extend the expert  
2 discovery rebuttal deadline for one (1) week to **April 22, 2016**, extend all later expert  
3 discovery dates by an equivalent duration to enable a full and complete discovery  
4 process, and extend the expert discovery deadline to May 30, 2016 to accommodate  
5 both parties' experts availability for deposition. The parties are amenable to a  
6 conference at the Court's convenience to discuss the request for relief set out herein, or  
7 any other issues related to the scheduling of discovery.

8 Respectfully submitted,

9 Dated: April 8, 2016

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AND POPEO PC

*/s/Micha Danzig*

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1 **Cross-Fit, Inc. v. National Strength and Conditioning Association**  
2 **Case No. 14CV1191 JLS KSC**

3 **PROOF OF SERVICE**

4 **UNITED STATES DISTRICT COURT, SOUTHERN DISTRICT OF**  
5 **CALIFORNIA**

6 I am employed in the County of San Diego, State of California. I am over the  
7 age of 18 and not a party to the within action; my business address is 550 West C  
8 Street, Suite 1900, San Diego, California 92101. On April 8, 2016, I served the  
9 document described as follows:

10 **JOINT APPLICATION TO CONTINUE EXPERT DATES AND**  
11 **DEADLINES IN THE FOURTH AMENDED SCHEDULING ORDER**

12 ☒ VIA ELECTRONIC FILING SERVICE: Complying with Local Rule 5.4(a)  
13 mandatory electronic filing, my electronic business address is wrd@manningllp.com  
14 I caused such document(s) to be electronically served through the CM/ECF system  
15 for the above-entitled case to those parties on the Service List maintained on the  
16 CM/ECF website for this case. The file transmission was reported as complete and a  
17 copy of the Filing/Service Receipt will be maintained with the original document(s)  
18 in our office.

19 I declare under penalty of perjury under the laws of the State of California  
20 that the above is true and correct.

21 Executed on April 8, 2016, at San Diego, California.

22   
23 WENDY DENTON  
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